

**WHEN RECORDED RETURN TO:**

Amy S. Beattie  
6701 Westown Parkway, Suite 100  
West Des Moines, Iowa 50266

Preparer Information: Amy S. Beattie, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

**DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE CITY OF ANKENY, IOWA  
AND GARY FLAHERTY**

WHEREAS, The City of Ankeny (City) in cooperation with the Iowa Department of Transportation (IDOT) has designed and is currently constructing a widening of SE Oralabor Road from a 2-lane rural roadway to a 4-lane urban roadway with median from SE Creekview Drive to SE Four Mile Drive; and

WHEREAS, Gary Flaherty owns a parcel of ground located at 2870 NE 78th Avenue, Ankeny, IA 50021 (Property) in the NW quadrant of the intersection of SE Oralabor Road and SE Four Mile Drive; and

WHEREAS, the Property currently has a secondary entrance drive connecting to SE Oralabor Road; and

WHEREAS, access to the Property from this secondary entrance drive, at the conclusion of the construction of the 2009 SE Oralabor Road Reconstruction Project, will be via a right-in/right-out access located at Station 129+52, according to the construction plans. This drive location will function as a secondary entrance to the Property; and

WHEREAS, any transfer or improvement of the Property in the future will necessitate the elimination of the secondary entrance drive at Station 129+52 in accordance with the City of Ankeny access policies. The access for the Property, at such time that transfer or improvement of the property occurs, will be reduced to only the current primary entrance drive connecting to SE Four Mile Drive.

NOW, THEREFORE, the City of Ankeny will allow the right-in/right-out access to the Property for use as a secondary entrance until such time as the Property is improved or transferred to another owner, in accordance with the following conditions:

- G.A.F./R.M. 1/28/10*
1. No subdivision plat, site plan, or ~~building permit~~ will be approved by the City for the Property until such time as the secondary entrance drive has been eliminated by the property owner.
  2. This Agreement shall be governed by the laws of the State of Iowa. In the event a party hereto breaches a covenant, warranty or representation of this Agreement, the other party shall give to the alleged defaulting party written notice of the alleged default and of the actions necessary to cure the default. If the default is not cured within ten days from the date of notice, the party not in default may exercise all remedies available at law, or in equity, including specific performance.
  3. This Agreement contains the entire agreement between the parties. This Agreement may not be changed or modified in any manner, unless a written instrument is executed by the parties.
  4. All agreements, covenants, representations and warranties made herein are intended to survive until termination of this Agreement.
  5. Any consent or approval required herein shall not be unreasonably withheld; provided, however, that this Agreement is subject to the approval of the City Council of the City of Ankeny, Iowa.
  6. The City has found and determined that this Agreement serves and accomplishes a public purpose and is in the best interests of the City and its citizens and residents.
  9. Gary Flaherty agrees that this Development Agreement shall be effective and binding from and after the approval hereof by resolution of the City Council and shall be binding on any and all subsequent titleholders, transferees and assignees.
  10. All notices or requests under this Agreement shall be given by certified mail, postage prepaid, return receipt requested, to the addresses shown below. Each properly addressed notice or request sent by certified mail shall be deemed given and served upon being actually received by the addressee or being rejected by the addressee. The City or Gary Flaherty shall have the right to send notices by overnight delivery which notices shall be deemed given and served upon actual receipt by the addressee or rejection by the addressee at the following addresses:

To the City:

City of Ankeny  
220 West First Street  
Ankeny, IA 50023  
Attn: Paul Moritz, P.E.

To Gary Flaherty:

Gary Flaherty  
2870 NE 78th Avenue  
Ankeny, IA 50021

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their duly authorized representative on this the 28 day of January, 2010.

**Gary Flaherty**

By: *Gary Flaherty*  
**Property Owner**

**CITY OF ANKENY, IOWA**

By: \_\_\_\_\_

**Steven D. Van Oort, Mayor**

Attest:

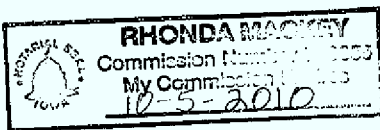
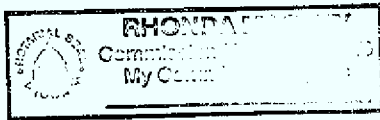
By: \_\_\_\_\_

**Pamela DeMouth, City Clerk**

**STATE OF IOWA, COUNTY OF POLK, ss:**

On this 28 day of January, 2010, before me, a Notary Public in and for the said State, personally appeared Gary Flaherty, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

*Rhonda Mackey*  
Notary Public in and for said State of Iowa



**STATE OF IOWA, COUNTY OF POLK, ss:**

On the \_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Steven D. Van Oort and Pam DeMouth**, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Ankeny, Iowa, a municipal corporation; that the seal affixed to the above and foregoing instrument is the corporate seal of said municipal corporation, and that said instrument was signed and contained in the Resolution adopted by the City Council of Ankeny, Iowa, on the \_\_\_\_ day of \_\_\_\_\_, 2010, and the said **Steven D. Van Oort and Pam DeMouth** acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa